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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/365,978	08/02/1999	JOHN HEFTI	19501-000500	2503

26618 7590 01/02/2002  
SIGNATURE BIOSCIENCE, INC.  
21124 CABOT BLVD.  
HAYWARD, CA 94545-1130

EXAMINER
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CHIN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 01/02/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/365,978

Applicant(s)

Hefti

Examiner

Chris Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 20, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12, 13, and 34-54 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 12 and 34-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 9/20/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/365,978 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Claim Rejections - 35 U.S.C. § 112***

2. Claims 12 and 34-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is vague because it depends from canceled claim 2.

Claim 34 is vague and indefinite. The recitation of "configured" in line 2 is not clear as to how the signal path is modified to support the electromagnetic signal. In line 4, the recitation of "connected in parallel" is vague as this terminology is associated with electrical circuits but the claim does not appear to involve any electrical circuits. In line 5, the recitation of "operational state" is not clear as to how the array element has been modified to support the propagation of an electromagnetic signal.

Claim 48 is vague and indefinite. In line 2, the recitation of "operable" is not clear as to how the signal path has been modified to support the propagation of an electromagnetic signal. In

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line 6, the recitation of "connected in parallel" is vague as this terminology is associated with electrical circuits but the claim does not appear to involve any electrical circuits. In line 8, the recitation of "operational state" is not clear as to how the array element has been modified to support the propagation of an electromagnetic signal.

***Claim Rejections - 35 U.S.C. § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 34 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Walt et al.

Walt et al (US Patent 6,210,910) discloses a biosensor array in which a population of cells are deployed in a plurality of microwells formed in the distal ends of individual fibers within a fiber optic array (see Figure 1 and col. 5, line 57, to col. 6, line 20).

In the array of Walt et al, the microwells are considered to read on a signal path with a molecular binding region (or plurality of molecular binding regions) and the fiber optic array attached to the microwells is considered to read on an array element since both provide the function of being able to support the propagation of an electromagnetic signal as in the instantly claimed device.

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*Allowable Subject Matter*

5. Claim 13 is allowed.

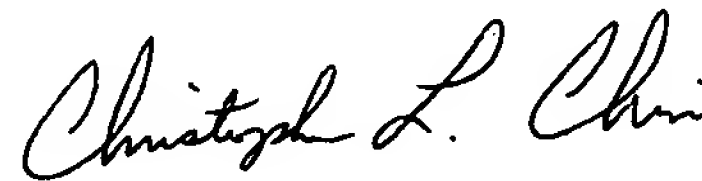
*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Chin whose telephone number is (703) 308-3991. The examiner can normally be reached on Monday-Thursday from 9:30 am to 7:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (703) 305-3399. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

cchin/cc  
December 31, 2001



CHRISTOPHER L. CHIN  
PRIMARY EXAMINER  
GROUP 1800/641